

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v.-

ARMANDO BENIQUEZ,

Defendant.

18 Cr. 236 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

On April 2, 2020, Defendant Armando Beniquez submitted a letter motion seeking compassionate release under 18 U.S.C. § 3582(c)(1)(A), due to the ongoing COVID-19 pandemic. (Dkt. #76). On April 7, 2020, the Government submitted its opposition to Defendant's motion. (Dkt #79). On April 8, 2020, the Court entered an Order requiring that the parties submit supplemental letters addressing certain specified issues. (Dkt. #80). The Government submitted its supplemental letter on April 12, 2020. (Dkt. #81). Defendant submitted his supplemental letter on April 13, 2020. (Dkt. #82). On April 16, 2020, the Court held a telephonic hearing during which it heard from the parties and rendered an oral decision on Defendant's motion. For the reasons given on the record during the telephonic hearing, Defendant's motion is DENIED. The Clerk of Court is directed to terminate the motions at docket entries 76 and 82.

The Court understands that Defendant requested that the Bureau of Prisons (the "BOP") grant him a 30-day furlough pursuant to 18 U.S.C. § 3622 on April 14, 2020. The Court further understands that it may recommend that the BOP exercise its discretion to grant Defendant a furlough. *See United*

States v. Roberts, No. 18 Cr. 528 (JMF), Dkt. #296 at 8-9 (S.D.N.Y. April 8, 2020). “Realistically, the best — perhaps the only — way to mitigate the damage and reduce the death toll [of inmates from COVID-19] is to decrease the jail and prison population by releasing as many people as possible.” *United States v. Nkanga*, 18 Cr. 713 (JMF), 2020 WL 1529535, at *1 (S.D.N.Y. Mar. 31, 2020). As the parties have agreed, Defendant is at particularly high risk from the COVID-19 virus because he suffers from chronic asthma. The Court acknowledges that the BOP must also consider competing interests but, according to the BOP’s own designation, Defendant is a high-risk inmate. (Dkt. #76 at 1). Further, the Attorney General has directed the BOP to “immediately review all inmates who have COVID-19 risk factors” to identify “suitable candidates for home confinement.” Memorandum from Att’y Gen. William Barr to Dir. of the Bureau of Prisons, at 2 (Apr. 3, 2020). Defendant may well be a “suitable candidate,” and the Court recommends that the BOP give Defendant’s furlough application serious consideration as soon as is practicable.

SO ORDERED.

Dated: April 16, 2020
New York, New York



KATHERINE POLK FAILLA
United States District Judge